

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

**IN RE:**

William A. Hubble  
Kimberly M Hubble

Debtors

Case No.: 20-18862  
Chapter: 13  
Hearing Date: 05/07/2021  
Judge LaShonda A. Hunt

**NOTICE OF MOTION**

TO: Glenn B Stearns, Chapter 13 Trustee, 801 Warrenville Road Suite 650, Lisle, IL 60532 by electronic notice through ECF  
William A. Hubble, Kimberly M Hubble, Debtors, 1861 Royal Lane, Aurora, IL 60503  
David M Siegel, Attorney for Debtors, 790 Chaddick Drive, Wheeling, IL 60090 by electronic notice through ECF  
Office of U.S. Trustee, 219 S. Dearborn St., Room 873, Chicago, IL 60604 by electronic notice through ECF

PLEASE TAKE NOTICE that on 05/07/2021, at 10:15 AM, I will appear telephonically before the Honorable Judge LaShonda A. Hunt, or any judge sitting her place, and present the motion of Codilis & Associates, P.C. for Wilmington Trust Company as successor trustee to The Bank of New York as successor trustee for JPMorgan Chase Bank, N.A., as Trustee for the benefit of the Certificateholders of Popular ABS, Inc. Mortgage Pass-Through Certificates Series 2005-5, a copy of which is attached.

**This motion will be presented and heard electronically using Zoom for Government.** No personal appearance in court is necessary or permitted. To appear and be heard on the motion, you must do the following:

**To appear by video**, use this link: <https://www.zoomgov.com/join>. Then enter the meeting ID and password.

**To appear by telephone**, call Zoom for Government at 1-669-254-5252 or 1-646-828- 7666. Then enter the meeting ID and password.

**Meeting ID and passcode.** The meeting ID for this hearing is **161 165 5696** and the **passcode is 7490911**. Additional information can be found on Judge Hunt's webpage on the court's website: <https://www.ilnb.uscourts.gov/content/judge-lashonda-hunt>.

**If you object to this motion** and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

**PROOF OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on April 26, 2021 and as to the debtors by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on April 26, 2021.

/s/ Terri M. Long  
Attorney for Movant

Terri M. Long ARDC#6196966  
**Codilis & Associates, P.C.**  
15W030 North Frontage Road, Suite 100  
Burr Ridge, IL 60527  
(630) 794-5300  
File No. 14-21-00002  
NOTE: This law firm is a debt collector.

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on April 26, 2021 and as to the debtors by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on April 26, 2021.

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/s/ Terri M. Long

Attorney for Movant

Berton J. Maley ARDC#6209399

Rachael A. Stokas ARDC#6276349

Peter C. Bastianen ARDC#6244346

Joel P. Fonferko ARDC#6276490

Brenda Ann Likavec ARDC#6330036

Terri M. Long ARDC#6196966

**Codilis & Associates, P.C.**

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**MOTION FOR RELIEF FROM THE AUTOMATIC STAY OR IN THE ALTERNATIVE  
TO DISMISS THE CASE FOR FAILURE TO MAKE PLAN PAYMENTS**

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**NOW COMES** Wilmington Trust Company as successor trustee to The Bank of New York as successor trustee for JPMorgan Chase Bank, N.A., as Trustee for the benefit of the Certificateholders of Popular ABS, Inc. Mortgage Pass-Through Certificates Series 2005-5, (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) for an Order granting Movant relief from the automatic stay or alternatively, for entry of an order dismissing the case pursuant to 11 U.S.C. §1307, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois, Eastern Division;

2. The Debtors are indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 1861 Royal Lane, Aurora, IL 60504;

3. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtors filing of this petition on 10/18/2020;

4. The Chapter 13 plan herein provides for the cure of the default of said mortgage and maintenance of current payments during the pendency of the proceeding;

5. Pursuant to the plan, Debtors are to disburse the current monthly mortgage payments directly to Movant beginning with the first payment due after the filing of the Chapter 13 Bankruptcy (subject to periodic adjustment due to change in escrow); *however*, Movant included the first two months of post-petition payments in its Proof of Claim so therefore the first payment that was expected is the payment due on 1/1/2021;

6. Movant is entitled to relief from the automatic stay under 11 U.S.C. Section 362(d) for the following reasons:

- a) As of 04/09/2021, the Debtors are past due for the 02/01/2021 payment, and all amounts coming due since that date. Any payments received after this date may not be reflected in this default;
- b) As of 04/09/2021, the total post-petition default through and including 04/01/2021, is \$6,658.60, which includes a suspense credit of \$100.85. Any payments received after this date may not be reflected in this default;
- c) On 05/01/2021, the default will increase, and will continue to increase as additional amounts become due;

7. Said failure to make post-petition mortgage payments is sufficient grounds for relief from the automatic stay for cause pursuant to 11 U.S.C. Section 362(d)(1);

8. That sufficient grounds exist to dismiss this proceeding under 11 U.S.C. §1307 as:

- a) Debtors' failure to timely pay post-petition mortgage payments as required under the plan and 11 U.S.C. §1322(b)(2) and (b)(5) constitutes an unreasonable delay that is prejudicial to moving creditor and the case should be dismissed under §1307(c)(1);

- b) Debtors' failure to timely pay post-petition mortgage payments as required under the plan and 11 U.S.C. §1322(b)(2) and (b)(5) constitutes "cause" and the case should be dismissed under the general provisions of 11 U.S.C. §1307;
- c) The default in post-petition mortgage payments constitutes a material default under section 3 of the Chapter 13 plan and case should be dismissed under §1307(c)(6);

9. This Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

10. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding:

\$1,050.00 for Preparation of Notice and Motion for Relief from the Automatic Stay, and prosecution of same  
\$188.00 for Court filing fee

11. PHH Mortgage Corporation services the underlying mortgage loan and note for the property referenced in this Motion for Relief for Wilmington Trust Company as successor trustee to The Bank of New York as successor trustee for JPMorgan Chase Bank, N.A., as Trustee for the benefit of the Certificateholders of Popular ABS, Inc. Mortgage Pass-Through Certificates Series 2005-5 (the noteholder) and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/or set aside by Order of this Court or if this case is dismissed or if the debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure action will be conducted in the name of Wilmington Trust Company as successor trustee to The Bank of New York as successor trustee for JPMorgan Chase Bank, N.A., as Trustee for the benefit of the Certificateholders of Popular ABS, Inc. Mortgage Pass-Through Certificates Series 2005-5 (the noteholder). Wilmington Trust Company as successor trustee to The Bank of New York as successor trustee for JPMorgan Chase Bank, N.A., as Trustee for the benefit of the Certificateholders of Popular ABS, Inc. Mortgage Pass-Through Certificates Series 2005-5 (the noteholder) has the right to foreclose because: Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly

or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed.

**WHEREFORE,** Wilmington Trust Company as successor trustee to The Bank of New York as successor trustee for JPMorgan Chase Bank, N.A., as Trustee for the benefit of the Certificateholders of Popular ABS, Inc. Mortgage Pass-Through Certificates Series 2005-5 prays this Court enter an Order pursuant to 11 U.S.C. Section 362(d) modifying the automatic stay as to Movant, or alternatively, for an entry of an order dismissing the case pursuant to 11 U.S.C. §1307, allowing the fees and costs described herein to be added to the indebtedness pursuant to the terms of the note and mortgage, and for such other and further relief as this Court may deem just and proper.

Dated this April 26, 2021.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Terri M. Long

Berton J. Maley ARDC#6209399  
Rachael A. Stokas ARDC#6276349  
Peter C. Bastianen ARDC#6244346  
Joel P. Fonferko ARDC#6276490  
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